

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

HENRY WESTON,

Petitioner,

v.

BRIAN FOSTER,

Respondent.

Case No. 19-CV-1104-JPS

**ORDER**

On January 19, 2022, the Court dismissed Petitioner's habeas petition because he had failed to file a status update every ninety days, as ordered by the Court. (Docket #16). The Court had previously warned Petitioner that a failure to file a status update would result in the dismissal of his case. (Docket #12 at 4–5; *see also* #14 at 1). In dismissing the petition, the Court noted that Petitioner's last communication with the Court had been in July 2020—well over a year and a half ago—and that Petitioner had not filed anything in his state court case, even though the Court granted Petitioner a stay to exhaust his state court claims. (Docket #16). On January 26, 2022—less than a week after the Court's order was issued—Petitioner filed a letter explaining that he had not yet filed a *Knight* petition with the state court because he contracted COVID-19 around June or July of 2021. Petitioner also explained that he had serious back pain that made it difficult for him to work. (Docket #18).

A party may file a motion to alter or amend judgment “no later than 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). “[T]he only grounds for a Rule 59(e) motion. . .are newly discovered evidence, an intervening change in the controlling law, and manifest error of law.”

*Cosgrove v. Bartolotta*, 150 F.3d 729, 732 (7th Cir. 1998). A party may file a motion for relief from a judgment or order under certain circumstances that include “any other reason that justifies relief.” Fed R. Civ. P. 60(b)(6).

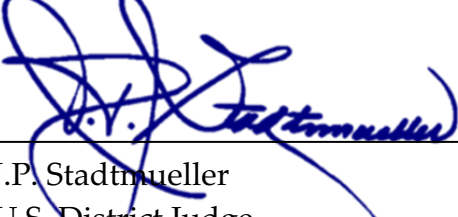
The Court declines to reverse its decision. Although Petitioner explains that he contracted COVID-19 in the summer 2021, this does not explain the absence of status updates in the full year before he became sick. Additionally, Petitioner quickly filed a response when the Court dismissed his action, thus indicating that he can file submissions in a timely manner. The Court is sympathetic to Petitioner’s health circumstances, but his most recent submission is simply too little, too late.

Accordingly,

**IT IS ORDERED** that Petitioner’s motion for reconsideration (Docket #18) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 1st day of February, 2022.

BY THE COURT:



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J.P. Stadtmueller  
U.S. District Judge